

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA
COURT FILE NO.: CV - _____

DENIS G. CLARK Plaintiff, v. NATIONAL ENTERPRISE SYSTEMS, INC. Defendant.	<u>COMPLAINT</u> <u>JURY TRIAL DEMANDED</u>
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JURISDICTION

1. Jurisdiction of this Court arises under 28 U.S.C. § 1331 and pursuant to 15 U.S.C. § 1692k(d).
2. This action arises out of Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA").
3. Venue is proper in this District because the acts and transactions occurred here, Plaintiff resides here, and Defendant transacts business here.

PARTIES

4. Plaintiff Denis G. Clark, is a natural person who resides in the City of Pittsburgh, County of Allegheny, Commonwealth of Pennsylvania, and is a "consumer" as that term is defined by 15 U.S.C. § 1692a(3).
5. Defendant National Enterprise Systems, Inc. (hereinafter "Defendant NES") is a foreign corporation and a collection agency operating from an address of 29125 Solon Road, Solon Ohio 44139, and is a "debt collector" as that term is defined by 15 U.S.C. § 1692a(6).

FACTUAL ALLEGATIONS

6. Plaintiff allegedly incurred a financial obligation that was primarily for personal, family or household purposes, that went into default for late payment, and is therefore a "debt" as that term is defined by 15 U.S.C. § 1692a(5), namely, a credit card, which was used by Plaintiff to make personal purchases of food, clothing, and shelter-related items.
7. The Plaintiff's alleged debt was consigned, placed or otherwise transferred to Defendant for collection from Plaintiff, when thereafter Plaintiff started receiving collection communications from Defendant in an attempt to collect this debt.

Recorded Messages left on Plaintiff's answering machine

8. Within the past year, the following messages were left on Plaintiff's answering machine by Defendant NES:
 - (a) . . .(inaudible) For a resolution, call today at 1-800-261-3766. Again that number is 1-800-261-3766.
 - (b) Hello this is Dave County calling. I have an important personal business matter to discuss with you. For a resolution, call today at 1-800-261-3766. Again that number is 1-800-261-3766.
 - (c) Hello this is Dave County calling. I have an important personal business matter to discuss with you. For a resolution, call today at 1-800-261-3766. Again that number is 1-800-261-3766.
 - (d) Hello this is Dave County calling. I have an important personal business matter to discuss with you. For a resolution, call today at 1-800-261-3766. Again that number is 1-800-261-3766.

- (e) Hello this is Dave County calling. I have an important personal business matter to discuss with you. For a resolution, call today at 1-800-261-3766. Again that number is 1-800-261-3766.
9. The aforementioned calls from Defendant NES to Plaintiff are collection communications in violation of 15 U.S.C. § 1692e(11) the FDCPA.

CAUSE OF ACTION

COUNT I.

VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT

15 U.S.C. § 1692 et seq.

10. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
11. The foregoing intentional and negligent acts and omissions of the Defendant constitute a violation of the FDCPA including, but not limited to, each and every one of the above-cited provisions of the FDCPA, 15 U.S.C. § 1692 et seq.
12. As a result of Defendant's violations of the FDCPA, Plaintiff is entitled to statutory damages and, reasonable attorney's fees and costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against the Defendant:

COUNT I.

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

15 U.S.C. § 1692 et seq.

- for an award of statutory damages; and

- for an award of costs of litigation and reasonable attorney's fees.

Respectfully submitted,

Date: January 23, 2008

JEFFREY L. SUHER, P.C.

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